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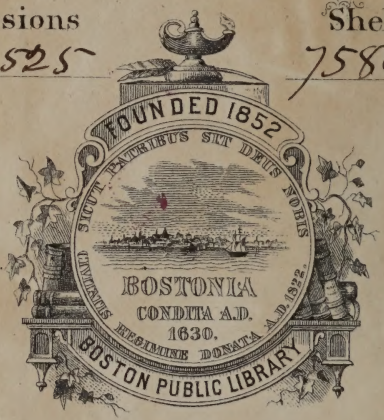

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FIVE LETTERS

TO

MY NEIGHBOR SMITH,

TOUCHING THE

FIFTEEN GALLON JUG:

WITH A

PREFACE AND POSTSCRIPT.

BY O. B.

FIFTH EDITION.

TO WHICH IS ADDED

A SIXTH LETTER.

BOSTON:
WEEKS, JORDAN AND COMPANY,
121 Washington Street.
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THE FIFTEEN-GALLON JUG.

TO THE EDITOR OF THE COURIER:

You inserted an *article* yesterday, extracted from a pamphlet, entitled the "Cracked Jug"—a publication that seems addressed to me. It *pretends* to be by "Neighbor Smith," but so far at least, it is deceptive, for *my* neighbor Smith is a fair minded man, and incapable of duplicity. That pamphlet, therefore, is not by him, nor had he any hand in it. But let that pass, and permit me to give you the history of some Rum and Brandy which I once bought of *my* "Neighbor Smith."

I was—like many other people—in the habit of keeping these things in my house, though I seldom used them. About two years ago, I bought a gallon of each, of my neighbor, and had them locked up in a store room. I had not occasion to go there for some months, but when I did go, I found my jugs empty! I could not account for this—but on the principle of having the article on hand, I went to neighbor Smith, and had my jugs filled again. In a fortnight they were again empty. I soon after discovered that the whole of the liquor had been drank by a female domestic, who was of course dismissed, and soon after became a sot. Though once a most excellent and respectable person, she has since been seen drunk in the streets of Boston, and is now a wretch, lost to the world and herself. This event was the source of much reflection to me, and if "*Neighbor Smith*" *will look over his books*, he will find that I have not since purchased of him the means of destroying a fellow-being.

O. B.

Author of Five Letters to

POUGHKEEPSIE, W

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PREFACE.

My neighbor Smith is a venerable old gentleman, a resident and citizen of Boston, who has acquired wealth by dealing in liquors. He is esteemed an honest and fair man in business. As a merchant, he is sagacious; and if sharp with others, he does in this as he is willing to be done by. In matters of contract, his word is as good as his bond. As a neighbor, he is kind and hospitable. If stiff in opinion, he is at least liberal with his purse. What he believes, he fears not to stand up for and defend. He is one of those men who are not easily persuaded that things can be better than they have been; and having a pretty large bump of reverence, he looks upon whatever has been long established with a predisposition to respect it.

It is not remarkable, therefore, considering his organization, that he should regard the temperance movements, and especially the late license law, which he facetiously calls the "*Fifteen Gallon Jug*," and, which, by the way, he threatens to demolish into some ten or fifteen thousand pieces — as proceeding from mere fanaticism. Whether the interest he has at stake exerts any influence upon his opinions in the matter, is what I cannot determine; but I have no idea that he is more selfish than other men would be in similar circumstances, who have long been harnessed to the single task of amassing a fortune. However this may be, he has taken a deep interest and an active part in the association of grocers and others, at Boston, whose object is to effect a repeal of the obnoxious law. These few hints will be sufficient to make the reader see the propriety of addressing the following letters to him.

LETTER I. *Introductory.*

My dear Sir:

In casually meeting you a few days since, you volunteered some reprobatory remarks upon the license law of the late session of our Legislature, taking occasion to give them a somewhat personal squint at myself, for the humble vote I had given as a member of that body, in favor of the measure. I did not then reply; for it seemed to me that I owed it to you as a neighbor, and myself as a man and a member of society, to present my views on the subject in a more deliberate manner than could be done in a hasty interview.

Permit me now to call your attention to the subject; and as your opinions are embodied in the "*Report of a Committee*" to a meeting held at the Old Common Council Room, on the fifth of June last, and in an "*Appeal to the good sense of the people of Massachusetts,*" recently issued under the authority of the same committee; and as, moreover, you have given to these papers your full sanction, I shall take the liberty to refer to them, as containing your sentiments. As you have been free and frank in your remarks, and in pressing the *argumentum ad hominem*, I shall imitate your example. As I received those remarks in patience and kindness, I hope you will imitate my example. As you assign to the Legislature, and to me as a member of it, motives of caprice and a disregard of a solemn oath, you will of course forgive me, if in return I take an occasional peep into the glass-house of other bosoms, and read the motives of those who bring this accusation.

I shall, as my leisure permits, address you by letter on the leading questions which belong to this subject, and beg your careful consideration of what I have to say. If I get prosy, or if the argument pinches, you will let me know, and I will desist.

I am yours, truly,

O. B.

To my neighbor Smith,

Residing at 999, Toe-the-mark street, Boston.

LETTER II.

The late License Law is incompatible with the Constitution of the United States.

The license law, enacted at the late session of the Legislature of Massachusetts, prohibits, under certain penalties, the selling of spirituous liquors in less quantities, than fifteen gallons, except for manufacturing and medicinal purposes. In the "*Appeal to the good sense of the people of Massachusetts*" it is maintained, with much tautology, that this law is incompatible with the Constitution of the United States. The main argument of the Appeal on this point is briefly this. In the eighth section of the Constitution of the United States, the power is given to Congress "to regulate commerce with foreign nations, and among the several States." This power of regulation is said, in the Appeal, to cover the whole business of importation of merchandize; and while it places it under the control of Congress, it excludes the States from all interference with it. "The right to import," says the Appeal, "carries with it the right to sell." It also speaks of "the natural right of buying and selling an article which the supreme law of the land (the law of Congress) permits to be bought and sold." It says, too, that "to admit the incorporation of an article into the mass of property, and its transfer from hand to hand in large quantities, and punish its transfer as property in less quantities, is an outrage upon every equal principle, and indirectly annuls the law of Congress." This language, if it means anything, implies that if a merchant imports goods, under the same authority, he may not only sell them, but the power of Congress still encircles this merchandize, and goes with it, into whose hands soever it may fall. To this power the Appeal seems to attach no conditions, and assigns no limits. The power is represented as absolute, riding over all state rights, and all municipal authority. It watches not over the pipe of brandy alone, but like a guardian genius, it accompanies it till it is filtered out in gills, and vanishes in the quicksand throat of the toper. It watches over the cargo of foreign rags, though

it be loaded with cholera or plague, and no one may stop its importation, or interfere with its sale. Though it may carry pestilence into the city, and spread desolation over the land, still it is invested with a charm that guards every shred and patch, and no one may lawfully venture to interrupt its introduction into, or dispersion over the country.

Such, if we understand the Appeal, is its exposition of the Constitution; and as coinciding with this, certain quotations from Judge Story and Chief Justice Marshall are given as follows:

"The States have a right to pass health laws, quarantine laws, and other police laws, not contrary to the laws of Congress; but I cannot admit that the States have authority to enact laws which trench upon the authority of Congress to regulate commerce."

"Congress has authorized the introduction of passengers [spirits] into the country. If a State may lay a tax, authorize removals, &c., these burdens would entirely defeat the objects of Congress in licensing the *trade*, and may be exerted at the pleasure of any State to the ruin and annihilation of the *trade*."

"There is no difference in effect between the power to prohibit the sale of an article and to prohibit its introduction into the country. The one would be a necessary consequence of the other. None would be *imported* if none could be *sold*."

"The result of the whole reasoning is, that *whatever restrains*, or prevents the introduction or importation of goods into the country, authorized and allowed by Congress, *interferes* with the exclusive right of Congress to regulate commerce."

Now let it be understood that the Judges are speaking of *importation*, and not of sales of articles after they have passed out of the hands of the importers, and I must confess that in these opinions I see no confirmation whatever of the doctrine laid down by the Appeal. So far from it, a principle is recognized in the first paragraph above quoted, which entirely destroys this doctrine. "The States have a right to pass health laws, quarantine laws," &c. If the power of Congress is thus unlimited, whence comes this right of

the States to stop the vessel in her progress, or seize upon the merchandize, if it may threaten the public health? The reply is obvious. Society has, and must have the right to protect itself—and in giving up the control of commerce to Congress, the States by no means surrendered this right. They reserved the right to pass health laws, quarantine laws, &c.; and thus the power of Congress is subject to such incidental restrictions as the exigencies of society may demand, in the execution of such laws.

This were a good and sufficient answer, were there no other, to the whole constitutional doctrine of the Appeal. The right of society to protect itself is recognized in all civilized lands. It has been recognized and practised in this country, under all forms of government, colonial, provincial and national. It has been practised by all the States, in their quarantine laws. health laws, inspection laws and license laws? and though these laws trenched upon the *unlimited power of Congress*, as laid down by the Appeal, they have never been impugned by Congress or any other authority. Massachusetts has exercised this power under the Constitution for fifty years, unquestioned and unresisted, until this Appeal of the Boston grocers crosses her path!

But there is one plain view of this matter, which is evidently covered over with great care by the writer of the "Appeal." I do not mean to say, neighbor Smith, that you are a party to this chicanery, for I believe you are a straight-forward man, and would not be guilty of fraud. But the lawyer you employed probably considered himself but as a lawyer, and thought it his duty to gain your case, fairly if he could, but at any rate to gain it. He therefore does not touch upon the rights of a State to manage the trade, or buying and selling, between its own citizens. He must know there is such a thing, because the judges of the Supreme Court, whom he has quoted, speak of it and say, the "*internal commerce of a State may be considered as reserved for the State itself.*" [See Gibbons *versus* Ogden. 9 Wheaton Rep., p. 1.] Judge Story, in his Commentaries, vol. ii. p. 510, says the same thing. In confir-

mation of this doctrine, he farther remarks that the commerce given up to the control of Congress, "does not comprehend any commerce between man and man in a single State." Here then is all that we need for a vindication of the license law, so far as it respects its conformity to the national Constitution.

That instrument, as before quoted, gives to Congress the right to regulate commerce with foreign nations, and among the several States; and the Indian tribes. This is the limit of its power. That commerce which is not foreign or between the different States or the Indian tribes, is not within the grasp of Congress, and is of course reserved to the States. This is the whole matter and so the Supreme Court has decided. Now the importer brings in his brandy or rum, pays his duty, and sells it. From that point the power of Congress ceases in respect to the article. It is now incorporated into the mass of State property, and becomes entirely subject to the State laws.

Now let us look at this in application to the new license law. That does not touch the importation, nor does it touch the article in the hands of the importer, unless he has changed the form in which it was imported, and in that case he has evidently lost the power of Congress to protect him. But when the importer has used up his right under the power of Congress, and sold his liquors into other hands, thereafter the trade in the article is between citizens of the State—*it is that, "internal trade" which Judges Marshall and Story say is "reserved to the States."*

Can anything be plainer than this? Why, then, neighbor Smith, did you not let it be seen in your Appeal? If you will look again at the quotations you give from Judges Marshall and Story, you will see that they confine the protective power of Congress to importation; and farther, if you will look at the very report from which your extracts are made, you will see that they speak expressly of this internal trade, as reserved to the States! Why, then, was it not permitted to be seen? Was it not that your lawyer knew it would ruin your whole plea, and his duty was to gain, not spoil your case?

Such are the chief arguments of the Appeal to prove

the incompatibility of the late license law with the national Constitution. That these are satisfactory to its authors we might almost believe, knowing how easy it is for faith to accommodate itself to interest, were it not for a declaration utterly at varience with their sincerity.

The authors of the Appeal say that their present efforts aim at "THE REPEAL OF THE NEW, AND THE RE-ENACTING OF THE OLD LICENSE LAW." Here, then, we have their direct approbation of the license law now partially in force, but superceded by the new one which goes into full effect in April next. We will not stop to remark how completely the doctrine of the Appeal, in respect to the absolute power of Congress is given up in this approval of the old license law; but proceed to state that the said law is based upon precisely the same principle as the new one. That principle is this—that the peace, safety and well-being of society require restraints upon the sale of alcoholic liquors. Accordingly the law prohibits all taverners and retailers from selling it in less quantities than twentyeight gallons without a license; and it expressly authorizes the County Commissioners to refuse licenses where they think proper. And you, neighbor Smith, know very well that the Commissioners in the adjacent county of Norfolk did recently refuse to grant any licenses. You know, too, that a similar refusal has been long practised in Plymouth, Bristol, Nantucket, and Barnstable counties. All this was well known to the authors of the Appeal. Here, then, was a law, actually prohibiting the sale of liquors in less quantities than twentyeight gallons, in five counties in the State, and authorizing its prohibition elsewhere, and the authors of the Appeal approve of this law, and desire its re-enactment; while they contend that a law prohibiting the sale in less quantities than fifteen gallons is unconstitutiona ` trenching upon the authority of Congress, impairing the rights of the citizen, an odious sumptuary regulation, favoring the rich, and oppressing the poor! The monstrous inconsistency of this cannot but beget a su ☞icion of the motive that can induce men thus to strain at a gnat and swallow a camel. The true explanation of this relish of the old law and resistance to the new, is doubtless to be found in the fact that the old law, from

its being partial in its operation, permitted the spirit trade to flourish, while a law really milder in its restrictions is opposed from the fear of its being carried into effect. It is easy to see here that the champions of principle are only its champions so long as its application allows thrift to their trade.

We come, then, to these conclusions :—

1. That the "Appeal," sets forth that Congress has unlimited power over importations; which however is is not true, because the reserved right of self-protection, always exercised, and never denied, gives the right to the States to pass various laws incidentally trenching upon such unlimited power, for the protection of the public.

2. That the right to import only gives the right of selling to the importer; that when the importer has sold his goods, then the trade becomes internal, and is reserved to the States.

3. That the authors of the Appeal approve of the twentyeight gallon law, existing before the new law, and now partially in force, and thereby signify their approbation of a law involving all the principles of the new law, and carrying the practice farther, inasmuch as twenty-eight is more than fifteen.

4. That the Appeal has evidently given an unfair exposition of the opinion of Judges Marshall and Story, and has designedly kept out of view the essential part of their decisions, so far as relates to this question.

5. That the constitutionality of the license law is capable of being vindicated on two grounds ;—1, the reserved right of providing for the public safety ; and 2, the right of the States reserved by the Constitution to regulate its internal trade or commerce.

I am yours, respectfully,

O. B.

To my neighbor Smith.

LETTER III.

The License Law is incompatible with the Constitution of this Commonwealth.

I now propose to consider the grounds upon which

your "Appeal" maintains that the license law in question, is at variance with the Constitution of the State; and for the sake of clearness, I will first state the main positions upon which this argument rests.

1. It is not for the common good.

2. It is a sumptuary law.

These two propositions are run out into many complex ramifications, all of which it will not be necessary to follow. A little plain dealing with the substance, will easily dispose of the shadows.

The first proposition then is that the license law is in derogation of the Constitution, because that instrument says "all shall be governed by certain laws for the common good." It is not for the common good, says the "Appeal," because by prohibiting sales under fifteen gallons, while it enables the rich man to buy spirits, it puts it out of the power of the poor man to buy them. "It says to the men who can buy fifteen gallons at a time, '*you* require no restraint from this indulgence; enjoy it as you please:' while to those who can purchase only in less quantities, it says, '*you* require restraint; your appetites must be legislated down, while those of your wealthier neighbors are to be freely indulged.'"

This is evidently the great point in the Appeal. It is argued at length, and the design of the writer plainly is to stir up the passions of the poor against the rich. To this point, I shall advert hereafter, and endeavor to show how the line between rich and poor ought to be drawn in respect to this question. I now proceed to consider the proposition that this law is not for the common good.

In the first place, let it be remarked that the law does not restrict the trade in spirit to fifteen gallons. It allows it to be sold in any quantities for the arts and medicinal purposes. For all good and salutary uses, it permits it to be sold by the thimble-full. For all good and salutary purposes, therefore, it provides that every man, be his means ever so narrow, may obtain it if he will. But it is used for purposes that are destructive to health and to life. It is used in a manner to increase pauperism, to inflame bad passions, and promote crime. It is used in a manner to become a pestilent disturber of the peace of society. Thus it is rendered dangerous to

the community. The particular way in which this danger arises, is, in its being sold as a drink or beverage in quantities under fifteen gallons. Here the evil lies. It is this form of selling that maintains the tippling bar and the grog-shop. It is this form of selling that multiplies the inducements, facilities and temptations to drunkenness. It is this form of selling that sustains the habit of drinking spirit, as a beverage, and that entails the evil upon society from generation to generation. Whether it goes to rich or poor, this form of selling it is that which produces these mighty mischiefs to society. Now is not a law for the common good, which checks this particular form of selling, and thus averts these evils? There can be but one reply to this interrogation. However it may operate upon this or that individual, who may be in peculiar circumstances, it is a general law; and in the true acceptation of the terms, an equal law; and, as going to check the most prevalent vice in society, the most fruitful source of individual misery and public calamity, it is evidently for the public good.

The Appeal states the principle of the Constitution on this point to be this: "if there is a privilege, each citizen shall enjoy it, relative to his means and ability." Now I suppose there is no greater privilege than that of building a dwelling. The right of providing a shelter for oneself and family is as important a right as that of buying rum. If, then, the principle laid down by the Appeal be true, a man whose ability is not equal to paying for a house with a slate roof, may go into any one of our cities, and build a house with a thatched roof of straw; or a man whose ability is not equal to building a brick or stone house, may, in any of our large towns, build a house of wood. Thus towns and cities must be exposed to conflagration to suit this principle. Thus a law prohibiting the construction of houses of combustible materials in our cities, by which all are secure from destruction, is not for the common good, because it gives a privilege to the rich man, who can afford to build of brick, and denies it to the poor man, whose ability is only equal to building of wood. The absurdity of this reasoning is too palpable to impose on any one, who is not predisposed to be duped.

The second ground on which the Appeal impugns the constitutionality of the license act, is, that it is a sumptuary law. It affirms that "since the foundation of the Constitution, this is the first open attempt at a sumptuary law." Now let it be remarked that there is nothing in the Constitution that forbids a sumptuary law. Besides, if there were, this act is in no sense of the word such a law. A sumptuary law is one that, directly and necessarily, limits a man's expenses in apparel, food, &c.; and this has no such operation. If it be a sumptuary law, then all laws taxing property, thereby raising the price —the tariff laws, designed to curtail the use of certain foreign articles, are all sumptuary laws. But, says the Appeal, 'if it restrains appetite, it is a sumptuary law." The laws in relation to brothels, restrain appetite ; they are, therefore, unconstitutional!

There are several other topics in the Appeal connnected with this question of the constitutionality of the law, which merit notice. To one of these I have already alluded, namely, the attempt to excite the jealousy of the poor, as if this were an oppressive law to them, while it carefully favors the luxurious appetite of the rich. In many points of view, this part of the Appeal deserves, as I trust it will receive, the reprobation of every honorable mind. It is, in the first place, a false issue. The law involves no question between the rich and the poor, as such. Its restrictions are upon all alike, and its benefits will accrue to the whole community — to the poor man as well as to the rich man. In the next place, let us look at the indviduals who use this argument, and the obvious motive with which they use it. The signers of this 'Appeal,' the promoters of this opposition to the law, are generally rich — some of them very rich. Their wealth has been accumulated by traffic in liquors. Their opposition to the law is manifestly engendered and stimulated by the desire of protecting their profitable trade. Already rich, they desire to preserve the means of still adding to their wealth. Thus, so far as they are themselves concerned, so far as they have any personal motive, they are laboring for the rich. They may indeed desire that the habit of drinking among the poor, and all other classes, should be kept up. They may be afraid of a law whose tendency

is to fortify the public in habits of temperance. But does their activity in this matter flow from any benevolent regard to the real interests of the poor? Is it not obvious that they regard the poor only so far as the profits they may wring from them are concerned; and that they are intent on securing this, though it may involve the misery and wretchedness of those by whom they thrive? And are there any so poor among us, so poor in spirit, so poor in understanding, as to be duped by this craft? not to give it a harsher name. It may be there are such; but poverty in purse is not of necessity allied to poverty of soul. I trust there is many a poor man in this Commonwealth who will look upon this attempt to seduce his patriotism, his honor, and his morals, through his poverty, with manly disdain.

The writer of the Appeal takes great pains to render the law odious, by affirming, again and again, that it *punishes as a crime.* As he is a lawyer, he knows the disingenuousness of such an artifice. A crime is a thing bad in itself, as theft and murder; an offence, an act bad in tendency. This distinction is well understood by lawyers. This law punishes its violation as an offence, and not as a crime. The use of the harsher term in the Appeal for the purpose of exciting indignation against the law, is evidently one of those artifices, which one, knowing its baseness, does not use without a sinister design.

The writer of the Appeal makes a distinction between the *use* and the *sale* of an article, and admitting that the law may regulate the last, denies that it may do so with the first. He then states that the law is wrong, because it aims at restraining the use. The obvious reply to this is, that while the law has power over the sale, it may, through that medium, aim at regulating the use. This principle has long been recognized in the laws respecting opium and poisons, in some of the States; by which their proper use is attempted to be secured through regulation of the sale. The same principle is also familiar to us as the basis of our tariff laws.

The Appeal says that the law is vindicated on the ground that the Ligislature is 'omnipotent.' I know of

no friend of the law who rests its defence on such a basis. The power is with the people; and the Legislature act but as their agents, within the limits of the Constitution. This authorizes the Legislature to "make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes and ordinances, directions and instructions, either with penalties or without." It would seem that this authority were ample enough, without reaching for that of "omnipotence." But the virtuous and far-seeing framers of our State constitution, have not left the great cause of TEMPERANCE to vague generalities. Its importance was such in their estimation as to demand particular notice. In the eighteenth article of that instrument, it is therefore set forth as a fundamental principle, a constant adherence to which "is absolutely necessary to preserve the advantages of liberty, and to maintain a free government." The license law, then, is not only not repugnant to the Constitution, but it is an enactment in obedienee to it. If that law tends to diminish the use of ardent spirits as a beverage, if it tends to remove the inducements, facilities, and temptations to drunkenness, then it is a mere fulfilment of an injunction laid down in the Constitution. And is not this the tendency? What better proof can we have of it than that the liquor dealers are opposed to it; that the grocer, grog vender, tavern tippler, soaker, and toper, are banded together over the whole State to effect its repeal?

I am yours, respectfully,

O. B.

To my neighbor Smith.

LETTER IV.

You cannot check intemperance by force.

One of the most common arguments which we hear against the license law is, that, even if it were right, it is impossible to repress intemperance by legal restrictions and penalties; and as the new law aims at this, it must of course fail. The reasoning may be reduced to the following propositions.

1. You cannot inculcate virtue by force.

2. You cannot restrain men's appetites and passions, even though vicious, by law.

3. Moral means are the only proper means to be used for the suppression of intemperance.

4. The regulation of intemperance ought to be left to public opinion.

We so often hear these trite dogmas on the lips of the inconsiderate, that they have acquired the flavor of slang. It is not uncommon to hear a champion of the inalienable right of free drinking, utter one of these sentences, and then look round with an air of exultation, equal to that of the Irish soldier in the play, who declares that he alone *surrounded* a regiment of the enemy. But let us approach these redoubted propositions, and see if they are really so formidable.

You cannot inculcate virtue by force, says the dogma. The argument then is that the license law, being an instrument of force, must fail of its object, which is to promote the virtue of temperance. Why then, if this be true, why have any laws against theft, robbery, or murder? Why compel a man to pay his honest debts by force of law? The answer is plain. These statutes do restrain vice and crime; they make them odious in the sight of the community, and while they attach horror and aversion to evil deeds, they beget a reverence for the opposite virtues. The law, then, is a school master, and trains men in the habit of thinking and acting with it.

Again, it is said that "you cannot restrain men's appetites and passions, even though vicious, by law." Why then do you not get a repeal of the seventh commandment, and all the laws which coincide with this portion of the decalogue?

Moral means are the only proper means to be used for the suppression of intemperance, says the dogma. This implies that moral means may properly be employed to influence men in this matter. Why then not use the law? for of all moral instruments, it is one of the most powerful. The force of a statute, even though penal, derives its influence from a consideration that weighs more with most minds than all others: it is an expression of the public will; a decree of the people; the sense of mankind. There are few minds that can re-

sist such an influence; and if the law become settled and established, by the operation of this influence it moulds the whole community into a conformity with it. The moral influence, therefore, of even a penal statute is more potent than that which springs from the threatened penalty. This last may be borne, the money may be paid, the imprisonment endured; but men shrink from doing that which the public has decreed to be wrong. The conscience, the very seat of moral impressions is reached, and the best of all monitors is made the centinel of virtue.

Again, it is affirmed that "the regulation of intemperance ought to be left to public opinion." The meaning of this is that public opinion is sufficient to force men to do right and avoid doing wrong. Why then do you not leave the selling of lottery tickets to be regulated by public opinion? A plain answer is, that although this traffic was held to be demoralizing and mischievous by the community at large before the prohibition law, still many individuals were engaged in it. Lottery offices were spread over the whole Commonwealth; and the dealers generally stood as well in society as do the grocers at the present time. The trade therefore flourished in spite of public opinion. The prohibitory statute was enacted and the traffic vanished. Mark one effect; this traffic is now held to be odious; and no man who values his character will be concerned in it. In itself the traffic is no more immoral now than before the law; but the expression of the public opinion upon this subject, the recording of that opinion in the statute book, and the sanction of it by severe penalties, has cleared the public vision, and everybody can now see that the lottery trade is immoral and pernicious.

Let it be remembered here that the lottery law was opposed by interested dealers as the license law now is by a similar class of persons. It was opposed on pretty much the same grounds; it was assailed as unconstitutional, as trenching upon the natural rights of buying and selling.

The four dogmas at the beginning of this letter were almost as familiar then in application to the lottery law, as they are at present, to the license law. Does it not seem strange, now that the thunder of the law has clear-

ed the moral atmosphere, that men, and respectable men too, could have been so blinded by their interests as to have resisted a measure so salutary as that restraining the traffic in lottery tickets?

It were easy to multiply cases, to show that public opinion is not a sufficient guarantee to public virtue or public peace. What is there in the community more reprobated than gambling houses? Yet is it not necessary that public opinion in respect to these should be sanctioned and enforced by statute? If public opinion is a sufficient guardian of the public morals, why repress the bagnio by law?

The truth is that in all these matters, public opinion needs to be fortified by the statute book. The great interests of society are not safe without it. We know that men will always be found who will set public opinion at defiance; that against which there is no law, is apt to be looked upon not merely as tolerated, but approved. It is for these reasons that the friends of temperance have sought the enactment of the license law in question. It is for these reasons that they hope and trust it will be sustained. The free selling of ardent spirits is held by public opinion in Massachusetts as tending to promote intemperance, and consequently as bringing multiplied evils upon the community. The friends of temperance wish this sentiment embodied in a law. They wish this view of the subject recorded in the statute book. If there be a doubt, now, whether a traffic which is the fertile source of more crimes, more disturbances of the public peace, more miseries in private life, than all other causes put together, be immoral, they wish it to be a question no longer. They wish this traffic to receive its true mark and designation upon its front from the strong impress of the State seal. Believing that public opinion is right on this subject, they wish the same solemn sanction of it which is furnished in respect to other mischiefs to society.

These are the desires of the friends of temperance. They wish to see alcohol restored to the narrow prison in which it properly belongs—the *materia medica*. This matter is perfectly well understood, and I am not surprised that unscrupulous dealers in the article as a beverage, should fear the operation of such a law.

Let me not be misapprehended; I would not force pub-

lic opinion by legal enactments. The law-maker should follow the people, for a statute against the public will, is sure to be evaded or violated. As it respects the law in question, we need no better evidence of its coincidence with public opinion than that after a full discussion of the subject, nearly three fourths of the popular branch of the Legislature gave it their sanction.

Yours, respectfully,

O. B.

To my neighbor Smith.

LETTER V.

The Law is inexpedient.

We come now to the last objection to the license law, which I propose to discuss, namely, its inexpediency. This is maintained on the following grounds:

1. It is unconstitutional.
2. It introduces a new and false principle of legislation.
3. It is not based upon public sentiment.
4. It cannot be enforced.
5. It will beget reaction and injure the temperance cause.

Let us now consider these points. First, as to the constitutionality of the law. The objection made to it on the ground that it conflicts with the Constitution of the United States, has been shown to be utterly groundless. The reserved right of self-protection upon which our quarantine laws, our health laws, and many others are based, gives us a right to restrain the traffic in spirits to any extent that may be found necessary to ensure the public peace. And even if this right were questioned, there is another principle behind which the law is entrenched, beyond the reach of successful attack. This principle is, that the internal trade of a State, between man and man, *is reserved by the Constitution itself to the States.* This is obvious on the face of the Constitution; so say the commentators, and so has said,

again and again, the Supreme Court of the United States.

The compatibility of the law with the State Constitution is equally evident. The Constitution of the United States reserves to the States the control of their internal trade. The people of Massachusetts have given up to their Legislature, by the Constitution, the regulation of trade. By this authority the Legislature regulates the sale of land, food, fuel, and a very large portion of the subjects of trade, whether they are merchandize or products of the country. The passing of this law is but the exercise of the power given to the Legislature by the people, a power long used in the interdiction of gambling-houses and brothels, the sale of lottery tickets, and in various license and inspection laws. All these are based upon the principle that any business tending to injure the public morals or the public peace, may be regulated or restrained to any required extent.

The next difficulty is, "that the license law introduces a new and false principle of legislation." If the preceding remarks be true, this proposition is unsound; and that it is so, no rational man can for a moment doubt. The very principle involved in this license law has been recognized and acted upon in Massachusetts for almost two centuries. In the colonial records as far back as 1646, you find a statute restraining the sale of liquors, with a view to limit their use and abuse. From that time to this, the law has existed, though with gradually increasing restrictions according to the advance of civilization.

But the authors of the Appeal say that they approve of the old license law, that which is now in force. That law provides for the prohibition of the sale of spirits under twenty-eight gallons. The principle here is the same as in the new law, and the practice is carried farther inasmuch as twenty-eight is more than fifteen. The new law therefore rests, not upon a new and false principle, but upon an old and approved one. It rests upon the same principle as a law approved, and now sought to be re-enacted by the grocers themselves!

The third objection is, "that the law is not based

upon public sentiment." This is altogether a gratuitous assumption, and in the face of facts. The best test we have had of public sentiment on this subject is that afforded by the vote of the last Legislatue. Who can know the sentiments of the people better than their representatives? And these, after a long and elaborate discussion, gave their votes in favor of the law, almost three to one. And where is the opposition to the law? It first broke out among the Boston grocers. They have called the meetings, they have rallied the drinkers, they are attempting to weave together all the malcontents of society and bring them to act together in opposition to this law. They have published the pamphlets, furnished the money, organized and inspired with the breath of life the self-styled 'liberal party' now arrayed or arraying itself for battle against the law. It is a grocer's interest, the spirit-dealer's purse, that is at work in this matter; and the gentlemen who are putting themselves forward in this business may do well to consider the position in which they will stand, whether defeated or successful in their designs. Some of them are now respected and respectable; but if they fail, as fail they certainly will, what can shelter them from public indignation? If they succed, though this is not to be feared, they take upon themselves a responsibility which will bear heavier upon them through life, as moral and social beings, than a millstone around the neck of one thrown into the sea.

Before any one indulges the idea that Massachusetts is to be controlled by a spirit-dealer's party, let him take into consideration a few simple facts. The new license law is no new project; it is analagous to the old law, and during the last session of the Legislature thousands of petitions asking for such a law, flowed in from every part of the Commonwealth. Nearly three-fourths of the members of the Legislature voted for the law. Five out of twelve counties in the State have had a similar law in operation for several years; and after trying it, the people have sanctioned it by triumphant majorities at the polls. Where then is the slightest ground for supposing that the majority of the citizens of Massachusetts will be found on the wrong side of this great question?

But, sir, I think this point is not accurately stated. You say the new law is not based upon public sentiment; the statement should be *that the grocers do not wish public sentiment to support the law.* This is the plain state of the case; their whole course of conduct shows that they fear public opinion in this matter, and are determined to rouse the people against it, whether it be good or ill. Why, else, do they not deal fairly in this case, let the law have a trial, and decide upon it, after its character and effects have been tested, by experience? This is all the friends of the law ask; they ask it for the cause of humanity, for the cause of public good, And can there be a doubt that the people of Massachusetts will take this course, in spite of the opposition made by an interested party?

The fourth difficulty is, "*that the law cannot be enforced.*" And pray why not? The old law was similar, restricting the sale of spirits to twenty-eight gallons where the Commissioners did not grant licenses. In Norfolk, Plymouth, &c. as before stated, no licenses were granted, and the twenty-eight gallon law was, and partially is, in operation; and it is carried into effect. I do not mean to say that it is not evaded; all laws which restrain the selfishness and the evil propensities of mankind are evaded more or less. But the grog-shop and the tavern have ceased to deal out their pestilence, the shout and revel of the drunkard are hushed in the village at night, the lashing of foaming horses through the streets on the Sabbath has ceased. And the people rejoice in these things; they feel more secure in respect to their property; they sleep in their beds more quietly at night, and look abroad upon society in the morning with that feeling which attends the release of the dreamer from the horrid incubus upon his breast. The law, therefore, is seen and felt to be good; and awed by its influence, tippling seeks concealment, and the drunkard hides his head.

The last of these arguments against the expediency of the law, is, that "*it will beget reaction, and injure the Temperance cause.*' It is not a little amusing to hear liquor-sellers and free-drinkers affect to feel great solicitude for the cause of temperance. I cannot but feel that they are somewhat in the position of a man

whom I have heard of in an adjacent State. It was on a muster-day that the person in question was in the middle of a populous street, surrounded by boys whom he was addressing. He was very drunk, and being conscious of it, sought to convince the boys that he was not drunk. While he supported himself by putting one arm over a board fence, he gesticulated with the other. He was speaking to his audience, though somewhat inarticulately, insisting upon it, that although appearances were against him, it was impossible he should be drunk, for he had been converted by parson Becket. At this moment the parson chanced to be passing by. The drunken man called out, "Parson Becket! Parson Becket!" But the parson heeded him not; and the drunken man then added, though somewhat crestfallen, "Why, parson Becket, don't you know me?—don't you remember that you converted me?"

How do you account for it, neighbor Smith, that if a man is opposed to the license law, whenever he has anything to say against it, he commences by affirming that he is a friend to temperance? How can this be explained, but on the supposition of an uneasy consciousness like that of the man I have described; on the supposition too that the cause of temperance is known and felt by everybody to be a great and good cause, and that opposition to the license law is also felt to be opposition to the cause of temperance itself? This is undoubtedly the true exposition; and it shows that the very opposers of this cause are conscious that it is right, and that it is anchored deep and strong in the hearts of the people. What reason, then, can there be to fear reaction? Has not the cause of temperance been for the last twelve years an advancing cause? Has not the standard of public opinion on this subject constantly risen higher and higher, year by year? And is it suddenly to turn about and go back, and that too at the suggestion of men notoriously interested? Having pursued this vice of intemperance for years, having seized the criminal, tried him, sentenced him, brought him to the gallows, and put the rope about his neck, at this point are the people to cut the cord and let the convict go free, because his accomplices ask them to do so?

The argument that the law will produce reaction, is founded on the principle that force, used to restrain men's passions, will have an opposite tendency. This is assuming more than we are disposed to grant in the present case. An unjust law, tending to check lawful and laudable enjoyments, might stimulate rather than limit what it was designed to repress. But if the law is just, if it has been enacted after due deliberation, and if, moreover, its design and tendency are to check a great and prevalent vice, to purify the public morals from a pervading and admitted evil, then I say that such a law can never have a reactive power, tending to defeat itself. To suppose that such a law, right in principle and good in tendency, will find such a resistance in the community as to produce mischief instead of good, to increase rather than prevent crime, is to cast a gross slander upon our fellow-citizens. The hint that men will get drunk out of spite, implies no compliment to the party opposing the law. It proceeds upon the assumption that a large portion of the people are so corrupt that they will not sustain what is right in principle and good in tendency, but actually convert it to mischievous ends. We maintain that no instance of such perversity can be shown in the history of New-England. On the contrary, all experience leads us to the opposite conclusion.

It is impossible, then, that there should be reaction on the subject of temperance caused by a law which is eminently calculated to promote it. The enlightened citizens of Massachusetts are not like the waves of the sea, changing with every lunar influence. Having entrenched themselves in the right, they are not easily driven from their post. And here, neighbor Smith, is the great strength of the law in question — IT IS RIGHT IN PRINCIPLE, IT IS RIGHT IN DESIGN AND TENDENCY. The people of Massachusetts know this; and all discussion of the question will only make this appear plainer and plainer. The illusion in respect to intoxicating drinks, which has hung over the minds of men for ages, has now passed away, and the citizens of Massachusetts see the plain truth. They see that the selling of liquors in small quantities for drink, leads to drunkenness. The consequence is wedded to the cause, as cer-

tainly as the electric spark will seek the iron rod. A tavern-keeper can no longer peddle out spirits and say that he does not thereby promote drunkenness. The wholesale dealer can no longer say, that by introducing the article into the country he does not, by a moral necessity, promote drunkenness. So far as spirits are used for medicines or manufactures, they are well enough; but nine tenths of the liquors now sold are for drink, and doing no good — they are only pernicious. Every glass that is drunk as a beverage tends to drunkenness.

Now neighbor Smith, what say you of your liquor trade? I admit that you manage it fairly; you introduce good liquors; and operating on a large scale, you sell them at a small profit. And thus those very traits of character for which you claim respect, redound to the mischief of your fellow-men. Your large capital and your fair dealing only contribute to increase intemperance by increasing the means, inducements and facilities to practice it. You furnish good liquors at a low price — thus tempting the palate and seducing the purse.

And if your trade tends to drunkenness, I beg you to consider what that word means. It is a vice which leads to all other vices. Look, sir, at the Ten Commandments — the broad basis of the moral law. Now the vice of drunkenness leads directly to the breach of every one of these sacred injunctions, except perhaps the last. It saps the very foundation of moral character; it takes away a man's self-controul, and leaves him a helpless wreck, upon the surges of passion. There is an ancient story of a man who was permitted to choose between three crimes — theft, murder, and drunkenness. He chose the last, and under its influence committed the two others. It is the peculiar character of drunkenness to promote all other crimes and vices. It is for this reason that it becomes the parent of most of the crimes which disturb the peace of society. As promoting pauperism, it becomes a serious tax to the community; as a destroyer of the peace of families, it must be regarded as the most fearful calamity that Providence permits to afflict us.

And now, my dear sir, is it not time to cease your co-operation with this monster-vice of society? You have sold some millions of gallons of spirits, and if you could

collect the history of these in detail, as they have gone forth to promote revels and debaucheries, as they have gone forth to promote that unseen, but deep and agonizing, wretchedness which often comes to the cottage from the drunken father or husband; if you could see in one heap the mass of evil which has flowed directly or indirectly from your trade — much as you value money, I believe your large fortune would seem but a poor compensation for the sad waste of human happiness, and the fearful accumulation of human misery, which are the price paid by the community that you might be rich!

And now, sir, if such be the enormity of intemperance, if the selling of liquors as a beverage tends to perpetuate and increase it, is not the law right which aims at the restraint of such selling? And do you believe that after the legislators of Massachusetts have once made such a law, the citizens will come forward and demand its repeal without trying it, merely at the instance of liquor dealers — men who, if we regard the immediate and remote effects of their trade, ought to be charged in account annually, for one half the pauperism, one half the insanity, one half the conflagrations, one half the suicides, thefts, murders and rapes of society? Is the law which would banish, or at least mitigate, great evils, to be annulled, that a few selfish individuals may thrive, at the expense and through the miseries and degradation of their fellow men? I think not. I think the citizens of Massachusetts will act with their usual good sense on this occasion. THEY WILL TRY THE LAW, AND THAT IS ALL ITS FRIENDS CAN ASK.

I am yours, respectfully,

O. B.

To my neighbor Smith.

P. S. There is an argument about *grease*, in the "Appeal," which I have not noticed. As a piece of wit, it is very clever, and I pray you give my thanks to the writer, for I am in his debt for a hearty laugh. As an argument, and it is seriously urged as such, it is beneath a wise man's contempt. The attempt to run down the license law, by saying that if it is sustained we shall not stop short of interfering with men's ordinary eating and drink-

ing, is too absurd, when we consider that intemperance is pointed out in the Constitution as a thing to be checked. In going at least as fast and far as the Constitution requires, we are always safe.

I congratulate you, my dear neighbor, upon the recent Convention and Resolutions in Franklin county, against the license law; the account of which I have this moment perused. Their consistency is a fair match for that of the signers of the Boston "Appeal." The Hon. J. C. Alvord, in the Senate last winter, while the license law was under discussion, opposed it on the ground of inexpediency, *at the same time saying again and again, that the law was right in every one of its principles.* He also said, *that if the law should be enacted he should feel bound to support it and give it a trial.* And the said convention pronounce this a good, sound, and excellent speech, and offer thanks to Mr. Alvord for it, yet declare the law wrong in every one of its principles, and call upon every member of society to resist it!!—I beg you will have the speech printed and circulated with the resolutions.

In looking over my letters, I remark an omission, which may be of some importance. In the Appeal, it is admitted that a State may *regulate* the sale of liquors, but the power of prohibition is denied. If you will take the trouble to look at the case of *Gibbons* v. *Ogden*, before referred to, you will there see, that Judges Marshall, &c. have decided that the power of *regulation*, involves the power of prohibition. Congress by its authority to regulate commerce, passed the embargo act, nonintercourse act, &c.—and the Judges say that these acts of *prohibition* are legitimate exercises of the power given in the Constitution to *regulate* commerce. O. B.

NOTE TO THE READER.—I am told that several persons pretend that "My Neighbor Smith," is a fictitious personage, and that the high character and exalted worth, attributed in my letters to him, are really intended for, and belong to them. I have only to say, on this point, that in these letters, nothing is meant, personally and individually for any one, beside the well known citizen of Boston, resident at No. 999 Toe-the-mark street, Boston, to whom they are addressed. If any one beside, appropriates them to himself, and imagines they are aimed at him, he assumes an honor not intended for him. O. B.

LETTER VI.

The test of Consistency applied. The real Motives of the Opposers of the License Law, developed. The actual tendency of their Principles unfolded. The great Question, now at issue.

I AM glad to be informed, my dear neighbor, that you have perused the several letters I have addressed to you, in respect to the new license law, and that you are giving them a careful consideration. Permit me to suggest a few other views of this subject, with an earnest request that you will allow them to have due weight in making up your judgment upon this important question.

One of the easiest and commonest modes of testing human character and conduct, is to compare their various parts; if they harmonize and are consistent one with another, the inference is favorable; if they are marked with contradiction, there is ground for strong distrust.

Now, Sir, let us apply this test to you, and the party with whom you act in opposition to this law. You come before the citizens of Massachusetts in a solemn "Appeal," and declare that your hostility to the said law is founded, mainly, upon four propositions; 1*st*, *That the law clashes with the Constitution of the United States, because it restrains the sale of an article, introduced under the laws of Congress;* 2*d*, *That it conflicts with the State Constitution, inasmuch as it operates unequally, and thereby infringes that principle which requires all laws to be for the common good;* 3*d*, *That it restrains appetite, and all laws which restrain appetite are sumptuary laws, and therefore wrong;* 4*th*, *That it undertakes to regulate the use of an article, in a manner which interferes with inalienable rights.*

I have already discussed these propositions; and shown, as I think, that they are utterly unfounded.* But they

* If any thing were needed, to settle beyond all dispute, the compatibility of our license laws with the national Constitution, it might be found, in an act of Congress passed in 1813, entitled "An act for laying duties on licenses to retailers of wines, spirituous liquors, and foreign merchandize." In this act, is the following passage. "*Provided always, that no license shall be granted to any person to sell wines, distilled spirituous liquors or merchandise, as aforesaid, who is prohibited to sell the same by any State.*" Here then is an express recognition, on the

are the bulwarks of your party, the platform of your creed. These are the grounds on which you appeal to the good sense of the people of Massachusetts, to come forward, and lend you their aid. And for what object, to accomplish what end, do you make this appeal? Let us take your own words, in your own manifesto. It is TO REPEAL THE NEW, AND RE-ENACT THE OLD LICENSE LAW. Now, Sir, I beg you to tell me which of the charges you bring against the new law, does not apply with equal, if not greater force to the old law? If a law which prohibits the sale of liquors, under fifteen gallons, clashes with the Constitution of the United States, cannot the same be said of a law which prohibits their sale under twenty-eight gallons? If the new law operates unequally upon the rich and poor, favoring those who can buy fifteen gallons, and excluding those who are not able to purchase so large a quantity, does not the old law operate still more unequally, still more in favor of the rich, and against the poor, by raising the smallest quantity that can be purchased to twentyeight gallons?

If the new fifteen gallon law restrains appetite, does not the old twentyeight gallon law? If the fifteen gallon law, by restricting the use of an article, interferes with inalienable rights, does not the twentyeight gallon law which you desire to restore, do it still more?

The plain inference from this comparison is, that all the objections you urge against the new law which you condemn, apply with double force, against the law you seek to have restored. How can we account for such inconsistency? How is it that men will pretend to be the champions of certain great principles, and the next moment abandon them? Is it not fair to infer, that all this show of principle is mere pretence, and put forth for the purpose of making dupes of those who can be induced to favor a selfish and sinister design? If so, what is this design?

To answer this interrogation, we need but look at facts. The war against the new license law did not commence with the poor, in whose behalf it is ostensibly waged.

part of Congress, of the right of the States to pass restraining and prohibitory laws, in respect to the sale of liquors. Here is an express recognition of the principle laid down by Judges Marshall and Story, that "the control of the internal trade is reserved to the States;" and this principle is applied, by Congress itself, to the traffic now in question.

It commenced not with the drinkers, for a large portion of even these are aware of their danger, and are willing that the temptation which is drawing them down to ruin, should be removed. This war commenced not with the consumers, but with the rich importers and large spirit dealers. These men, worth their millions, put their heavy purses into the scale, determined to weigh down public opinion. Their desire was to enjoy their trade. This was their object, and their only object. The new law, being general in its operation, threatened this trade with destruction, or serious diminution. The old law operated only in certain counties, where the authorities withheld licenses. In Suffolk, the trade was free. These facts afford an easy explanation of the inconsistency I have pointed out. The new law is condemned as unconstitutional, unequal and oppressive, because it restrains the liquor trade over the whole state, and of course in Boston; at the same time, the old law, while it involves the same principles, is approved, and sought to be re-enacted, because it only operates upon five or six counties, and gives full sway to the trade of the rich liquor dealers of Boston!

The seeming selfishness and hypocrisy which are thus developed, are in no degree softened by a few other considerations connected with this topic. The authors of the Appeal strenuously maintain that a law which is partial in its operation, is unconstitutional, oppressive and wrong. They assert that the poor are threatened with oppression, and assume the magnanimous attitude of defenders of the oppressed. Yet they come forward and oppose a law which is to operate, alike over the whole state, from Berkshire to Barnstable. They seek to restore a law which permits four hundred taverns and grog shops in Boston, yet making it penal to sell spirits in less quantities than twenty eight gallons, in the counties of Norfolk, Plymouth, Bristol, Barnstable and Dukes! Such is the consistency of these lovers of equality—these enemies of partial laws. They are enemies to a general and equal law, which puts them under the same restrictions as others, and friends of an unequal law, which makes *them* the privileged party.

This view of the case is strengthened by facts which must be fresh in your recollection, as well as that of the

authors of the Appeal. Acting under the old law, (that which you and your friends wish now to restore) the county commissioners of Norfolk withheld all spirit licenses about three years since. This step was strenuously resisted by the taverners, grocers and others of that county, and numerous petitions were sent to the legislature of 1837–8 praying for a repeal of the law, or a modification of it. The arguments they urged against it were precisely the same that you now urge against the new law. But they particularly objected to its partial operation, prohibiting as it did the sale of liquors under twentyeight gallons in one county, and permiting their sale at retail in other counties. They complained that in Roxbury, for instance, they had a twentyeight gallon law, while across the line, the privileged city of Boston had at least four hundred retailers. It was this inequality of the law, that was specially complained of by the petitioners, and evidently weighed more in their minds than all other difficulties.

And how did the Boston grocers act at this period? Did they rise in their strength, and endeavor to aid their fellow spirit venders in Norfolk to effect their deliverance? Surely not. So long as their own trade flourished, they remained quiet; but no sooner is an equal law passed, imposing the same restrictions on them, as on others, even though it be a fifteen, instead of a twentyeight gallon restriction, than they rise as one man and cry out that the constitution is invaded, the rights of freemen endangered, the privileges of the poor sacrificed to the rich! *They cared not for the poor of Norfolk till the rich of Boston were touched in their sensorium—the purse!* And even now, they seem only to care for themselves. Away, say they, with the new law, for it treats us, grocers of Boston, as it treats others, and to this we cannot submit. Give us back the old law, for though it restricts five counties in the state to twentyeight gallons, it gives to us in Suffolk the glorious privilege of five hundred grog shops. A twentyeight gallon restriction is perfectly right elsewhere, but a fifteen gallon restriction upon us of Boston is unconstitutional, a restraint upon appetite, an odious sumptuary law!

This, sir, is the plain English of the Appeal, the literal transparent meaning of the Boston agitators, as set forth

in their several documents. If, indeed, there is any escape from these inferences, it must be upon a supposition which I am loth to make, and from which I should certainly exculpate you. The supposition is this, that the avowed desire and design of the opposers of the new law to effect its repeal and obtain the re-enactment of the old flaw, is a merepretence, covering a deeper plan, the ultimate end of which is to roll back the tide of public sentiment, overturn the whole system of restriction, and open, free and wide, the floodgates of liquor selling. I have heard of an Irishman, who wrote from the western part of New York to his friend in Cork, "Come over here my darlint, for this is a raal paradise of a country—whiskey tew and saxpence a gallon, and no hangen for murthur!" Such were Pat's ideas of freedom, and there may be those who have been brought up within sight of Bunker Hill, who are scarcely more advanced in genuine civilization. These may imagine that the cause of liberty will be promoted by an erasure from our statute book of all restrictions upon the means, inducements, and facilities to drunkenness. But the authors of the Appeal are not of this grade of understanding. If they aim at overturning our spirit license laws, they do it from no such vulgar delusion as that to which I have alluded, but from a full comprehension of the perilous mischiefs they may bring upon society.

I am reluctant, therefore, to attribute such designs to them, yet I cannot throw off the painful apprehension which arises from considering that the principles they lay down, if consistently carried out, will result in an absolute and final repeal of every restriction whatever, upon the sale of spirits. I ask, my dear Sir, your careful attention to this point. In the Appeal, it is maintained, that "*to admit the incorporation of an article into the mass of property (by allowing its importation) and its transfer from hand to hand, in large quantities, and punish its transfer as property in less quantities, is an outrage upon every equal principle.* This language admits of but one construction; it is a plain and palpable denial of the right of the legislature to enact any penal statute against the free, unchecked sale of liquors.

The other doctrines of the Appeal go to the same point. "*Whatever restrains appetite is a sumptuary law.*" *All*

laws which attempt to regulate, or restrain the use of an article, are incompatible with the inalienable rights of the citizen." Such are the dogmas of the Appeal, and it is easy to see that they apply to all the license laws, that have been enacted in Massachusetts, from 1646, to the present day. And are you willing, Sir, to lend your aid and the authority of your name to the dissemination, throughout the community, of sentiments like these? Have you measured carefully the length and breadth of this matter? Are you willing, for the sake of a momentary advantage to your business, to throw poisoned arrows into the minds of your fellow-men, which may render them restive under the wholesome restraints of just laws, and make them, at once, unhappy within themselves, and sources of disquiet to society. Suppose, Sir, you had the power to carry the shaft to its mark, and effect the triumph of those principles to which you have given the sanction of your name, would you not start back appalled at your own success?

Consider, a moment, the position in which Massachusetts now stands. In general civilization, she is admitted to take the lead of her sister States. There is no one circumstance which so clearly marks, and at the same time ensures her far advance in refinement, as the united action of the people and the legislature, in respect to temperance. It is to this very point, that public attention is now drawn, throughout this Union. If the recent law shall become established, it will be regarded as a proof of intelligence and virtue on the part of the people, worthy of all admiration. And would you, Sir, if you had the power, step in and despoil the state of the moral glory which may be wreathed around its brow? Would you tempt the citizens of Massachusetts to throw off the restraints upon a dangerous and maddening vice, which they have themselves imposed, and, disappointing the hopes of philanthropy which are suspended upon this question, hurl us back into the gulph, where oaths, murders, suicides, and insanity are heard and seen to issue from the bar-room and the grog shop? If Sir, you wish to fathom the full depth of the degradation you would bring upon society, could you meet with full ccsuess—go to the far West, along the borders of the Missouri, the Red River, or the Mississippi, and see your

views realised. There, you will find the paradise of the toper, for there spirits flow freely as the rivers. Go, and you will see that alcohol is the great brutaliser of society—the prolific source of barbarism—the most fatal hindrance to the progress of civilization—the fertile parent of gouging, stabbing, and all licentiouness. Go, and you will see the real tendency of your conduct; and that so far as it is endowed with efficiency, it would carry Massachusetts back to the degradation of these border States.

There are many other weighty considerations which press upon the mind, in deliberating upon this subject; but I have trespassed so far upon your time, that I must restrict myself to mere hints.

There are men who look upon all questions only as matters of interest. These can never elevate their minds beyond the sordid and selfish considerations suggested by their own pursuits. But you Sir, will not fail to adopt nobler views. Whatever involves the happiness of others is a moral question, and all action, in respect to it, is moral action, going directly to the conscience. Whoever casts a vote, utters an opinion, or exerts influence in such a case, takes upon himself precisely the same moral responsibility that he would do, if the decision of the whole question were laid on him. And are you willing, Sir, in this view of the subject, to throw your weight into the scale of opposition to the cause of temperance and virtue.

Let me venture upon another suggestion; you are a parent, and by your influence and example will be linked to your children, for good or ill, to eternity. You are past the meridian of life, and the lengthening shadows of the descending sun must have often carried your mind forward to that period when those to whom you have given existence will be left without your counsel and guidance. But you will bequeath to them your example, and this will continue to speak, as with a living voice. Shall its admonition be for, or against human improvement, happiness and virtue? Will you write on the record of your life for your children's perusal, "I opposed the great reform of temperance, I put myself on the side of the tippler and the toper, the tavern and the grog shop; instead of using my influence to close these gates of

perdition, I did what I could to keep them open. I said that a law to restrain drunkenness would produce reaction, and I used all my power to bring about such reaction; I said that a law calculated to banish from society the most formidable evil which besets it, was not suited to public opinion, and I exerted my influence to prevent public opinion from sustaining it. I was deeply interested in the spirit trade, and in a great moral and political question which placed my profits on one side, and the cause of human happiness on the other, I stood by my trade, and vindicated my profits."

But Sir, I forbear—a word to you is as good as a volume. But, before I close, let me ask you to apply a simple and easy test to the great question that is now under consideration. On all public topics, there is a right and a wrong side. There is one scale into which the high-minded—those who take a noble and elevating view of human society—those who are always yearning for a higher and still higher standard of virtue and civilization, naturally throw themselves. In the opposite scale, drawn together by a common sympathy, you will find those, who are abashed in the presence of virtue, who feel only at ease where all around is as coarse and degraded as themselves, and who are therefore, ever ready to do battle against the cause of human improvement. I think, Sir, we can see such a division as this, already taking place upon the subject which we are now discussing. Hitherto, you have been ever found on the right side. But where are you now? Are you shoulder to shoulder with the friends of good order, the peaceful, the virtuous and the high minded citizen, or are you in the ranks of those who seek to throw down the wholesome barriers of virtue, and extend, rather than check the spirit of licentiousness? I beg you, Sir, to apply this test to the question now at issue in this Commonwealth, and take up that line of conduct which the inference would enforce upon an honest and patriotic bosom.

In bidding you farewell, permit me as an excuse for the earnestness with which I press this subject upon your notice to suggest my own views of the strife, which is now about to be waged. A little more than half a century since, there was a struggle upon and around Bunker Hill, which involved not merely life and death to

those who were immediately engaged in it, but the great interests of liberty to mankind. The bloodless strife which is now approaching, involves interests scarcely less dear and hardly less extensive. We are about to fight a battle for the country, and I sincerely believe for mankind. We are to decide whether a free people, in the exercise of their political rights, will hurl from its throne and trample under foot, a great moral despotism; a despotism infinitely more cruel and oppressive, than the political tyranny against which our fathers fought. If this can be done in Massachusetts, it can, and will be done elsewhere. If it cannot be done by those who enjoy the heritage of the Pilgrims—those who are familiar with the echoes of Faneuil Hall—those who are accustomed to see the sun rise and set on Dorchester Heights and Breed's Hill—where, can it be done?

I will only add, that for my own part, while I am fully apprised of the activity of the opposition to the law in question—of the great interest, the heavy capital and the long purse, that are combined to effect its overthrow, and while I should deplore this event as one that casts a despairing aspect of gloom over human nature, and the prospects of humanity—I do not by any means indulge anxious fears. My hopes are stayed upon Providence, and the mass of the people in Massachusetts. I see, not among the rich and educated, alone, but among the middling and laboring classes, a spirit that inspires me with unwavering confidence. I place my hopes on those who are poor in the world's wealth, but rich in good sense, and the love of truth and order. I see those whose lot is to toil, those whose recreations are few and simple, sacrificing at the altar of religion, virtue and patriotism, what has been esteemed a darling luxury to them; I see them saying to the tempter, and all who would act as his coadjutors, "get thee behind me!"—and voluntarily attaching themselves to the cause of strict, self-denying temperance. A cause, which developes such examples of virtue, and displays such triumphs over besetting temptation, cannot be in jeopardy.

I am yours, truly,

O. B.

To my neighbor Smith.

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